

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE:

MIDAMERICAN ENERGY COMPANY

DOCKET NO. P-844

ORDER REGARDING EMINENT DOMAIN NOTICE

(Issued June 5, 2002)

On May 29, 2002, MidAmerican Energy Company (MidAmerican) filed a proposed eminent domain notice for approval pursuant to the procedural order issued May 22, 2002 and Iowa Code § 479.7 (2001).

MidAmerican's eminent domain notice is in compliance with applicable statutes and Board rules except for Items C, D, and F. Item C does not contain sufficient information to inform the landowner of the process used by the agency in deciding whether to approve the petition for a permit, including granting the right to take property by eminent domain. Item C only describes the hearing. A copy of revised Item C is attached for MidAmerican to use.

Item D must include the time and place of the public hearing. MidAmerican's notice does not contain the second date for hearing as set forth in the May 22, 2002, order. The first sentence of MidAmerican's notice should be revised to read as follows: "The Utilities Board will hold a public hearing beginning at 9:30 a.m. on Tuesday, July 30, and Wednesday, July 31, 2002," In addition, Item D should

incorporate the following sentence: "Persons with disabilities who will require assistive services or devices to observe this hearing or participate in it should contact the Utilities Board at (515) 281-5256 in advance of the scheduled date to request that appropriate arrangements be made."

Item F is the statement of rights of individual property owners. In its notice, MidAmerican has included a partial list of rights from the statement of property owner's rights adopted by the Attorney General in 61 IAC 34.1. Although rule 34.2 allows acquiring agencies the discretion to provide the statement in a different form, add more detail, or add supplementary material to expand the owner's rights, rule 34.1 is the minimum. The rule does not permit companies to pick and choose which rights they believe are applicable. Therefore, MidAmerican must include the Statement of Property Owner's Rights as set forth in rule 34.1 in its entirety.

MidAmerican must serve the eminent domain notice by certified mail, return receipt requested, pursuant to Board subrule 10.4(2). If it did not serve the May 22, 2002, procedural order and notice of hearing by certified mail to the owners and persons in possession of lands over which eminent domain is sought, it must do so pursuant to the same rule.

IT IS THEREFORE ORDERED:

1. MidAmerican must modify its eminent domain notice as discussed in this order. Once it is so modified, the notice is approved pursuant to Iowa Code § 479.7.

2. MidAmerican must serve the eminent domain notice to owners and persons in possession of lands over which eminent domain is sought by certified mail, return receipt requested, pursuant to 199 IAC 10.4(2).

3. If MidAmerican did not serve the May 22, 2002, procedural order and notice of hearing by certified mail to the owners and persons in possession of lands over which eminent domain is sought, it must do so pursuant to 199 IAC 10.4(2).

UTILITIES BOARD

/s/ Amy L. Christensen
Amy L. Christensen
Administrative Law Judge

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

Dated at Des Moines, Iowa, this 5th day of June, 2002.

Revised Item C

The Utilities Board (Board) has scheduled a public hearing to consider the petition and any objections filed and hear testimony to aid it in determining whether to grant the permit. The Board may grant a permit in whole or in part upon terms, conditions, and restrictions as to safety requirements and as to location and route determined to be just and proper. To grant a permit, the Board must determine whether the services proposed will promote the public convenience and necessity. If the right of eminent domain is granted by the Board, it is granted for the life of the proposed pipeline. The permit granted by the Board is for a 25-year period, which is subject to renewal for as long as the pipeline is in use.

Witnesses must file prepared testimony prior to hearing. At the hearing, parties will be given the opportunity to cross-examine MidAmerican's witnesses and to present witnesses on their own behalf. All parties and persons who plan to present evidence and argument at the hearing should be aware of MidAmerican's petition, Board orders, prepared testimony and exhibits, and other pertinent filings in this docket. These documents are on file with the Board at its Record Center, 350 Maple St., Des Moines, Iowa (515) 281-5563. Witnesses who have filed prepared testimony and exhibits will be cross-examined at the hearing, but do not ordinarily repeat the written testimony from the stand. One copy of each witness's prepared testimony and exhibits will be made available for public inspection at the hearing.

The matter of just compensation for property rights taken by eminent domain is not determined by the Board. It is determined by a Compensation Commission appointed from your county pursuant to Iowa Code Chapter 6B.

The Board has appointed a presiding officer to preside over the hearing and issue a proposed decision. This proposed decision will become the final decision of the Board unless it is appealed to the Board by a party to the case within the time limit provided in the proposed decision. When the Board has decided the case, either initially or on appeal from the proposed decision, any party to the proceeding may file for rehearing within 20 days. Once a final decision has been issued, any party may appeal to the District Court within 30 days.